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WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA, }

11 Plaintiff, }

12 v. }

13 ABEL NGOZICHUKWU NNABUE, }

14 Defendant }

NO. CR03-011C

GOVERNMENT'S SENTENCING
MEMORANDUM



CR 03-00011 #00000042

I. Introduction

The United States hereby files its Sentencing Memorandum in this case. The United States recommends that the Court follow the recommendation of the United States Probation Office and sentence the defendant to 12 months and one day in prison, followed by a three year term of supervised release.

II. Factual Background

In late-2002, defendants ABEL NNABUE and TOBECHI ONWUHARA, who were both living and working in the Dallas, Texas area, arranged to obtain unauthorized Discover credit cards in various names, along with counterfeit Texas driver's licenses necessary to use those credit cards. As later admitted in a statement by ONWUHARA, the scheme began when the defendants met a bartender named "Dave," who recruited ONWUHARA and NNABUE to assist him with credit card scams. In connection with this scheme, "Dave" agreed to email to ONWUHARA and NNABUE various names and other information to be used in selecting unauthorized credit cards. ONWUHARA and

1 NNABUE then would review the information and select the "identities" to be used in the
 2 scheme. Dave, in turn, would receive their selections and then send by mail the
 3 unauthorized credit cards and counterfeit drivers' licenses to various hotels to be picked
 4 up by ONWUHARA and NNABUE

5 Attached hereto as Exhibit A is a true and correct copy of one such email
 6 containing various names, addresses, telephone numbers, social security numbers, and
 7 dates of birth for various identities (Bates Stamp Nos. 000036-43). Exhibit A also
 8 includes a reply email (Bates Stamp No. 000035) showing that ONWUHARA had
 9 selected the identities of "Thomas Michael Crowley," "James Alex Weaver," and "Roger
 10 Ricky Reynolds," and NNABUE had chosen "Joseph Francis Galati," "Glen Will
 11 Huckabee" and/or "Earnest George Bodenmiller." These emails were seized by police
 12 incident to the defendants' later arrest on December 12, 2002

13 After arranging to receive these unauthorized credit cards and counterfeit driver's
 14 licenses, NNABUE and ONWUHARA traveled to the Seattle area for the purpose of
 15 using the credit cards. NNABUE had resided in the Seattle area between 1989 and 2001.
 16 Shortly after arriving, on December 12, 2002, NNABUE and ONWUHARA drove to a
 17 Lynnwood branch of the Washington Mutual Bank. ONWUHARA entered the Bank and
 18 requested a \$5,000 cash advance using the unauthorized credit card in the name of Robert
 19 Palmer and a counterfeit Texas driver's license in that same name. NNABUE remained
 20 outside of the bank and served as the getaway driver in a rented Plymouth Neon. When
 21 Bank employees became suspicious of the transaction and called police, NNABUE and
 22 ONWUHARA fled the bank in the Neon driven by NNABUE.

23 The Lynnwood Police immediately gave chase. Attached hereto as Exhibit B is a
 24 true and correct copy of a Lynnwood Police Report fully describing the ensuing police
 25 chase. As noted in the Report, the chase occurred in the middle of the business day
 26 between 11:30 a.m. and noon, on wet roadways, during the height of the Christmas
 27 shopping season. NNABUE first began by evading a uniformed police office and a
 28 marked police car that had approached the rear of the Neon. Ignoring the police

1 emergency lights and police sirens, the Neon took evasive measures to avoid police cars,
 2 striking sidewalk curbs at least two times during the subsequent pursuit. In the ensuing
 3 chase, defendants ran at least six stop signs, and repeatedly reached speeds of 60 and even
 4 70 miles per hour in 30-mile per hour speed zones During the chase, defendant
 5 ONWUHARA threw evidence from the window of the car. When police finally pursued
 6 the Neon into a church parking lot, NNABUE was forced to stop and surrendered as he
 7 stepped out of the driver's seat. ONWUHARA, however, fled on foot through the
 8 residential neighborhood. ONWUHARA was captured after Police called in a canine unit
 9 and set up a containment perimeter.

10 Consistent with the emails described above, at the time of the defendants' arrest,
 11 police seized unauthorized credit cards in the names of "Glen Will Huckabay" and
 12 "Earnest George Bodenmiller," along with counterfeit drivers' licenses in those same
 13 names bearing photographs of NNABUE. Police also seized unauthorized credit cards in
 14 the names of "Robert Palmer," "Roger Ricky Reynolds," and "James Alex Weaver,"
 15 along with counterfeit drivers' licenses in those same names bearing photographs of
 16 ONWUHARA.

17 III. Guideline Calculations

18 The United States agrees with the United States Sentencing Guidelines (U.S.S.G.)
 19 calculations set forth in the Presentence Report.

20 A. Loss Amount, U.S.S.G. § 2B1.1(b)(1)

21 Contrary to defense counsel's suggestion, the actual and attempted loss amount in
 22 this is between \$5,000 and \$10,000.

23 Here, NNABUE pleaded guilty to attempted bank fraud for assisting
 24 ONWUHARA in using the "James Weaver" credit card to apply for a \$5,000 cash
 25 advance. Under the Commentary to U.S.S.G. § 2B1.1, loss includes the pecuniary harm
 26 that was intended to result from the offense. U.S.S.G. § 2B1.1, Commentary Note
 27 2(A)(ii). Therefore, NNABUE should be held responsible for the attempted loss of
 28 \$5,000 with the James Weaver credit card at the Washington Mutual Bank.

1 Additionally, NNABUE possessed unauthorized credit cards in the names of
 2 Earnest Bodenmiller and Glen Huckabay, for which NNABUE possessed counterfeit
 3 driver's licenses bearing his photograph. According to the Commentary which
 4 accompanies U.S.S.G. § 2B1.1, the calculation of loss in credit card cases includes any
 5 unauthorized charges, but in any event "shall not be less than \$500 per access device."
 6 U.S.S.G. § 2B1.1, Application Note 2(F). As one Court observed in describing this
 7 Commentary, "[t]his loss is a presumed loss, setting a floor beneath which neither
 8 "actual" nor "intended" loss may fall." United States v. Yellowe, 24 F.3d 1110, 1113
 9 (9th Cir. 1994)(describing earlier version setting \$100 minimum per card). Therefore,
 10 because no unauthorized charges were made with these cards yet, the loss amount
 11 associated with the Bodenmiller and Huckabay credit cards should be an additional \$500
 12 per card.

13 **B. Use of Means of Identification to Produce Other
 14 Means of Identification, U.S.S.G. § 2B1.1(b)(9)(C)(i)**

15 Defendant also errs in contending that the two-point enhancement under U.S.S.G.
 16 § 2B1.1(b)(9)(C)(i) is not applicable.

17 Section 2B1.1(b)(9)(C)(i) imposes a two-point enhancement when the offense
 18 "involves" the unauthorized transfer or use of any means of identification to produce any
 19 other means of identification. Under Application Note 7 to U.S.S.G. § 2B1.1, for the
 20 purposes of this guideline provision, "means of identification" is defined in 18 U.S.C
 21 §1028(d)(4). Section 1029(d)(4)(A), in turn, defines "means of identification" to include
 22 any name, number, social security number, or date of birth that could be used alone or in
 23 conjunction with other information to identify a specific person.

24 Here, the defendants received by email from their associate a list of credit card
 25 holders' names, addresses, telephone numbers, date of birth, and social security numbers
 26 (Exhibit A, Bates Stamp Nos. 000036-43), from which they selected the credit card
 27 holders in whose name unauthorized credit cards and counterfeit driver's licenses would
 28 be produced (Exhibit A, Bates Stamp No. 000035). Thus, the defendants obtained this
 29 information about credit card holders, and then used that information to select the credit

1 card holders in whose names unauthorized credit cards and counterfeit driver's licenses
 2 would be produced. They clearly used information constituting a "means of
 3 identification" to produce another means of identification

4 **C. Minor Role, U.S.S.G. § 3B1.2(b)**

5 Defendant NNABUE mistakenly argues that he is entitled to a sentencing
 6 reduction under U.S.S.G. § 3B1.2 as a minor or minimal participant in criminal activity.

7 Defendant NNABUE errs because the United States did not charge NNABUE in a
 8 larger scheme involving \$86,000 in losses, as it did in ONWUHARA's case. The
 9 Government purposely charged NNABUE with only one transaction at the Washington
 10 Mutual Bank in Lynnwood involving an attempted loss of just \$5,000. As to that
 11 transaction, NNABUE was an active participant. The evidence shows that NNABUE and
 12 ONWUHARA both arranged to obtained the fraudulent credit cards and counterfeit
 13 driver's licenses with their photos. Both defendants had more than one fraudulent credit
 14 card and driver's license in their possession when arrested. Likewise, both defendants
 15 traveled from Texas to Seattle together for the purposes of using those cards. Indeed,
 16 ONWUHARA had never resided in the Seattle areas; only NNABUE had lived in this
 17 area. Naturally, NNABUE remained in the car to serve as the getaway driver, since the
 18 counterfeit Texas driver's license used at the bank bore only ONWUHARA's photograph.
 19 While both NNABUE and ONWUHARA played different roles in this particular
 20 transaction, the foregoing evidence shows that both defendants intended to participate
 21 together in the use of these fraudulent credit cards. Under these circumstances,
 22 NNABUE did not have a minor or minimal role. See United States v. Hursh, 217 F.3d
 23 761, 770 (9th Cir.2000)(upholding district court's denial of a minimal or minor role
 24 adjustment based on "mere courier" status in drug transaction).

25
 26
 27
 28

1 **D. Reckless Endangerment During Flight, U.S.S.G. § 3C1.2**

2 Defendant also deserves the two-point enhancement for reckless endangerment
 3 during flight under U.S.S.G. § 3C1.2.

4 Section 3C1.2 of the Sentencing Guidelines provides that the District Court may
 5 adjust a defendant's sentence upward two levels "[i]f the defendant recklessly created a
 6 substantial risk of death or serious bodily injury to another person in the course of fleeing
 7 from a law enforcement officer...." U.S.S.G. 3C1.2. Under this section, a defendant is
 8 expressly made responsible "for his own conduct and for conduct that he aided or abetted,
 9 counseled, commanded, induced, procured, or willfully caused." U.S.S.G. 3C1.2,

10 Application Note 5

11 As shown in the Lynnwood Police Report attached as Exhibit B, defendants
 12 NNABUE fled the Washington Mutual Bank with extreme recklessness, placing
 13 themselves, the police, and the public at extreme risk. NNABUE repeatedly drove at 60
 14 and 70 miles per hour in a 30 mile per hours speed zone. He ran at least six stop signs
 15 and repeatedly struck the curb, at one point damaging the rim cover of the rented Neon.
 16 He engaged in this conduct while being pursued by uniformed police officers in at least
 17 three police cars with emergency lights and sirens, while other police officers were forced
 18 to stop the traffic sharing the road.

19 Such a dangerous, high speed car chase is precisely the kind of behavior that
 20 warrants an enhancement for reckless endangerment during flight. In United States v.
Luna, 21 F.3d 874 (9th Cir.1994), for example, the Court held that the enhancement
 21 applied where the suspect bank robbers ran three stop signs, refused police attempts to
 22 pull over their car, and then abandoned the running car, fleeing on foot Id. at 885.
 23 In fact, courts generally have held that such speeding itself qualifies as the type of
 24 reckless behavior endangerment that warrants the enhancement in § 3C1.2. See United
States v. Jimenez, 323 F.3d 320, 324 (5th Cir. 2003)(enhancement applied where the
 25 defendant "engaged the officers in a vehicle pursuit, traveling at a high rate of speed [at
 26 night] through business and residential areas . . . brought the car to a stop, exited, and
 27

1 began running away"); United States v. Velasquez, 67 F.3d 650, 654 (7th Cir.
2 1995)(enhancement applied where defendant "fled the scene at a high rate of speed (one
3 officer had to drive between sixty and seventy miles per hour to catch up) through
4 residential neighborhoods"); United States v. Chandler, 12 F.3d 1427, 1433 (7th
5 Cir.1994)(traveling between 35 and 50 miles per hour through a residential area and
6 swerving warranted the two-level enhancement), cited with approval in Luna supra.

7 **E. Overstated Criminal History, U.S.S.G. § 4A1.3**

8 The Probation Office has recommended a departure under U.S.S.G. § 4A1.3 from
9 a Category III Criminal History to a Category II Criminal History. The applicable
10 guideline range would thereby be reduced from 15 to 21 months to 12 to 18 months. The
11 United States agrees with that recommendation for the reasons stated in the Presentence
12 Report.

13 No further reduction to a Category I Criminal History is appropriate, however.
14 Category I Criminal History is reserved for those defendants with minimal or no criminal
15 history and little or no likelihood of recidivism. See U.S.S.G. § 4A1.3, Background
16 Commentary. In contrast, defendant NNABUE has been a repeated violator of the
17 driving laws, who currently has *three* violations for driving without a license, a negligent
18 driving conviction, and a conviction for supplying liquor to minors. Moreover,
19 NNABUE's conduct in the instant case involves yet another driving violation for which
20 he was never prosecuted, that is, reckless driving that placed the public at substantial risk.
21 Additionally, the instant case involves the use and attempted use of unauthorized credit
22 cards, an offense that is easy to commit and therefore often involves recidivism. In view
23 of this history, and because Criminal History Category I is appropriate for offenders with
24 the "lowest risk of recidivism," U.S.S.G. § 4A1.3, defendant should receive a departure
25 only to Category II.

1 **IV. Sentencing Recommendation**

2 The United States recommends that the Court sentence defendant NNABUE to 12
3 months and one day in prison, as recommended in the Presentence Report

4 While this sentence is the same sentence received by ONWUHARA whose loss
5 amount was higher, NNABUE started out with a more significant criminal history than
6 ONWUHARA. Indeed, ONWUHARA had no prior criminal history points. Moreover,
7 unlike ONWUHARA, NNABUE qualifies for the two-point enhancement for reckless
8 endangerment during flight because he was the driver of the Plymouth Neon that engaged
9 in the dangerous, high speed police chase.

10 Taking all of these facts into consideration, the Court should sentence defendant to
11 12 months and one day in prison, followed by three years of supervised release.

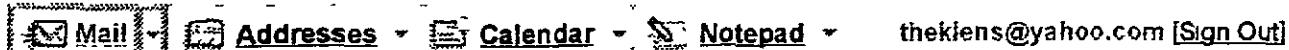
12 DATED this 27th day of May, 2003.

13
14 Respectfully submitted,
15 JOHN McKAY
16 United States Attorney

17 
18 LAWRENCE LINCOLN
19 Assistant United States Attorney

EXHIBIT A

EXHIBIT A


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SANFORD 273308294
 ROBERT BROWN
 503-630-6931
 POBOX 1624
 ESTACADA OR 970231624

1956/04/01
 521-82-2436

HILTON

1943/06/01

MARK PRELLBERG
 816-505-34-31
 PO BOX 33355
 RIVERSIDE MO 641683355

352-46-4947

RONK

1952/10/01

LEE A GERHARDSTEIN
 614-891-2667
 6265 CHAR-MAR DR
 WESTERVILLE OH 430829019

301-58-5237

DASALLO

1956/04/28

DONALD M DECAMARA
 330-656-1039
 1903 HAYMARKETWAY
 216-831-6601
 HUDSON OH 442364645

144-50-9738

mcgoohan

1954/02/09

HARBACH F EDWIN
 513-791-0652
 27 HERITAGEET
 513-381-6900
 CINCINNATI OH 452413261

298-52-5764

CALMES

1954/01/17

JOHN M KUYKENDALL
 407-629-4721
 591 DOMMERIEH DR
 MAITLAND FL 327514502

265-33-2417

WILLIAMS

1957/01/01

JOHN P MONAGHAN
 419-882-3687
 6132 ROCKDALE LN
 419-885-4125
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Date: Tue, 10 Dec 2002 20 07 25 -0600

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| DAVID W LITTLE 812-336-1951 3303 BROWNCLIFF LN BLOOMINGTON IN 47408135 | 342-16-6778 1922/10/01 SMALL |
| EDWARD DEAN PORTER 2853 TWP HWY 249 TORONTO OH 43964 | 271-28-6612 1929/09/08 FLAISER |
| STANLEY S PALAGYI 440-593-3628 4140 LAKE RD CONNEAUT OH 440302942 | 297-42-3576 1946/12/29 PUTICKI |
| EDWARD E HALL 216-441-4136 13204 REXWOOD AVE 7 TOLEDO OH 436061209 | HALL 1977/07/01 |
| MARK D ENGFER 419-536-2173 3318 E. LINCOLNSHIRE BLVD TOLEDO OH 436061209 | 271-84-0426 WHAL 1970/09/01 |
| EDMUND L SIMON 508-460-8175 11 ALALON DR APT 12 MARLBOROUGH MA 0175235^4 | 273-78-4945 1975/12/01 GOLEMBA |
| JOHN R FAHRMEIER 513-233-9794 8383 WYCLIFTE DR 513-579-5000 CINCINNATI OH 45244259- | 800-24-0000 ALLEN 1966/03/01 |
| ROBERT M WHITE 305-745-2517 805 EAST SHORE DR SUMMERLAND KEY FL 33042-510 | 352-38-4477 BARAGREE 1949/03/01 |
| DAN SWANSON | 088-38-4990 |

| | |
|--|---|
| 431-726-3434 16 TIMBERWOLF DR CUMBERLAND PI 02861-6439 | MMN MURPHY DCB 1949/02/01 |
| GENE C FEITH 821-699-5330 636 S COUNTY RD 821-696-4040 HOLTON IN 47023 | SSN 195-32-3155 MMN HEID DOB 1905/05/01 |
| TED F CATRANIS 251-666-4209 1114 JOGJWAY 90 DR MOBILE AL 36693-4321 | SSN 422-04-5894 MMN KORDOMEN PH 334-393-1200 DOB 1962/12/01 |
| POLKREICK P CHAPINIE 21 HIGHLAND AVE 207-868-2121 NEWPORT ME 049533226 | SSN 005-80-0112 MMN GAGNON PH DOB 1973/05/01 |
| MICK & SING DAIRY 703-256-1160 6410 SEFFING HOUSE CIR CLIFTON VA 20124-2457 | SSN 482-70-7080 MMN HANKINS DOB 1954/05/01 |
| HEM L SMALL 451-578-7264 7503 NW 124TH AVE BARKLINE FL 33076-1111 | SSN 012-34-6103 MMN SHAPIRO PH 509-651-7100 DOB 1954/03/01 |
| MAROLE SUPERSTEIN 7557 PRIM F FORWARD DR HENDERSON NV 89051-4916 | SSN 340-20-7015 MMN DAVIS PH 702-616-1771 DOB 1929/01/01 |
| LENNIE BRUNER R 770-645-9971 420 BRIGHTON CREST 2500 1/2 A BRIGHTON | SSN 107-54-5313 MMN MOTTA DOB 1967/08/01 |

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PICHARD G MILEWSKI
 159-28-6024 PH 609-927-0220
 7241 FERWOOD AVE
 GEGOWSKI
 EGG HARBOR TOWNSHIP NJ 08234-1306 DOB 1934/04/01

ROBERT EWALD C
 248-474-7172 SSN 168-46-2078
 35251 BRAXTON CT MMN WILLIAMS
 313-248-1895
 FARMINGTONHILL MI 48335-1306 DOB 1956/11/01

ROS R JOLLY 1D 100. SSN 247-02-8587 PH
 803-799-5224 MMN POLK
 2340 PARK ST Jane!
 COLUMBIA SC 29201-1852 DOB 1952/06/01
 (ALT ADD)
 625 WATER MARK
 COLUMBIA SC 29210

ROBERT W GAYLE SSN 223-78-6089 PH 863-665-2206
 PO BOX 6974 DOB 1952/06/01 PH
 563-242-0745 MMN AUDELE
 LAKELAND FL 33807

THEODORE B BARNES SSN 375-38-8394 PH 734-996-9423
 3293 PARKRIDGE MMN MARIE PH
 734-665-7555
 ANN ARBOR MI 48103-1712 DOB 1941/09/01

WILLIAM O REDL SSN 538-32-1428 PH
 425-392-2386 WILLIAMS
 PO BOX 1556 1943/12/01
 ISSAQAH WA 98027-0062

MARK A OSLAND SSN 501-92-8401 PH 701-730-3822
 21 7TH AVE SE 81500 MMN KARLSON
 MAYVILLE ND 58257-1511 DOB 1961/03/01

JAMES MAMMOCK SSN 254-94-8669 PH 478-946-3419
 633 BREWER RD MMN BOYT PH 478-453-7575
 IRWINTON GA 31042-2440 DOB 1955/01/01

ROBERT BERGRON SSN 343-19-5030 PH 337-365-1102
 4105 PRATT DR MMN BONIN PH 504-581-5454
 NEWIBERIA LA 70563-334 DOB 1964/09/01

ROBERT G SHELBY SSN 423-60-2857 PH 205-669-6626
 PO BOX 545 DOB 1945/05/01
 WILSOVILLE AL 35186-0545 MMN DARMON

RICHARD B LONG SSN 214-94-0637 PH
 703-397-0943
 1260 WEATHERSTONE CT DOB 1966/09/01
 RESTON VA 20194-1347 MMN BAYH

ROBERT RONDEAU SSN 038-32-3155 PH

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| DOUGLAS C FORSYTH PH 206-542-5440 3927 PLEASANTBEACH DR PH 206-286-8584 BAINBRIDGE ISLAND WA 98160 ZIP | | SSN 544 70 578 |
| GORDON SHAW 345-30-5657 PH 202-342-3102 2310 VIRGINIA AVE NW PH 202-342-3102 #307 N FOB 1997/00/04 WASHINGTON DC 20007-1114 ZIP | | SSN 544 70 578 |
| DAVID M REED PH 419-782-1600 217 SEITHRE ST PH 419-784-77 DEFTAN F 04 4351-316 ZIP | | SSN 544 70 578 |
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| | | |
|---|-----|---------------------|
| JAMES C CHAPMAN 4403560743 | SSN | 225-74-3374 |
| 20695 BEACONSFIELD BLVD ROCKY RIVER OH 441161307 | MMN | CERITON PH 440-616- |
| | DOB | 1951/01/01 |
| BRIAN W FIALKO PH 216-781-4300 1422 EUCLID AVE PH 216-7814300 SUITE 1104 CLEVELAND OH 441152063 | SSN | 287-44-5892 |
| | MMN | KAISER |
| | DOB | 1951/01 |
| LEO J CLARK PH 419-531-0186 34 EXMOOR TOLEDO OH 436174 | SSN | 155-40-0001 |
| | MMN | KEPESHAW |
| | DOB | 1944/05/26 |
| DAVID J ASKEW PH 734-449-4355 10657 SWALLOWTAIL CT 313-390-7398 SOUTH LYON MI 481789544 | SSN | 373-68-7134 |
| | MMN | DODBPT PH |
| | DOB | 1957/01/01 |
| JERZY M WITEK 134-76-2992 PH 718-261-0939 6921 NANSEN ST PH 212-734-2130 FOREST HILLS (?) FIND STATE W/ZIP 113755736 ZIP | SSN | |
| | MMN | D2I |
| | DOB | 1960/08/01 |
| PETER S MCCHEESNEY JR 410-349-1335 | SSN | 578-90-3546 |

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| | | |
|---|---|---|
| 6770 MAYFIELD ROAD CLEVELAND OH 441242299 | MMN WANDA DOB 1945/08/07 | PH 440-282-1711 |
| THEODOR E DANIELSON 28539 TRAVISTOCK TRL SOUTHFIELD MI 480345187 | SSN 163-34-69-46 MMN BUNDY 1943/08/01 | PH 248-352-57-12 PH 248-594-4611 |
| STEVEN SINGLETARY 70461 ARCHIE RD 504-279-5446 PEARL RIVER LA 704522411 | DOB 1963/05/01 | SSN 436-37-4250 MMN SEAL PH |
| ANTE RADAN PH 440-975-8640 2405 JESSICA COVE 440946-9470 WILLOUGHBY OH 44094-6045 | DOB 1956/02/01 | SSN 295-72-2372 MMN RADAN PH |
| RENQIU R YANG 610-539-2092 7011 WINDSWEPT LN 610-669-5397 NORRISTOWN PH 19403-1397 | DOB 1962/11/01 | SSN 206-66-6756 MMN JENNY PH |
| JERRY MCANALLY 770-737-5086 ¹⁴² 142 LULA PAYNE TRAIL GAIL GROUND GA 30107-5032 | DOB 1961/02/01 | SSN 411-13-0079 MMN MCDONALD PH 770-795-1061 PH |
| PERRY FRIEDMAN 216-595-6911 PO BOX 22520 PH 216-5956911 BEACHWOOD OH 4412-0520 | DOB 1947/05/01 | SSN 287-40-0396 MMN JARROWS PH |
| (ALT ADD) 450 HEMLOCK CIR # CL BEACHWOOD OH 44122 (ALT ADD 2) 1682 SAND LILLY DR GOLDEN CO 80401 | | |
| JOHN J GPISIK 330-656-1007 462 ROCKWOOD CIRCLE PENINSULA OH 44264-9537 | DOB 1946/12/05 | SSN 300-42-6596 MMN MIERCWA PH 330-3742024 |
| ERNEST E BODENMILLER ¹⁵⁷⁶³¹⁵⁶¹⁷² 43280 BEMIS ^{10 100} 734-484-8458 BELLEVILLE MI 4811-9166 | DOB 1947/01/01 | SSN 382-46-2088 MMN TAYLOR PH |
| ROGER R REYNOLDS 614-868-1093 10040 BERKSHIRE ST 614-868-1093 PICKERINGTON OH 43147-8794 | DOB 1956/06/29 | SSN 403-82-5430 MMN COLLINS PH |

EXHIBIT B

EXHIBIT B



*Lynnwood Police Department
Case #02-10071*

On December 12, 2002 at 1129 hours Lynnwood patrol units responded to a fraud in progress at the Washington Mutual bank located just inside the west doors of the Lynnwood Fred Meyers store (4615 196th St. SW). An update was given by dispatch that the suspect was leaving the store via the west doors. I was at the Lynnwood Police Dept. and responded to the call because of my close proximity. As I advised radio that I was responding Off. Jamison reported that he was in the Fred Meyers lot with an employee and began to give updates concerning the location of the suspect. Off. Jamison reported that the suspect(s) were still in the Fred Meyer west parking lot about to exit out onto 48th Ave. W. in a gold color vehicle. Off. Miller reported being with the vehicle as I arrived on scene. I observed Off. Jamison in full police uniform walking toward the suspect vehicle a gold Plymouth Neon with Oregon plates. Off. Miller parked his fully marked police vehicle off the right rear quarter panel of the suspect vehicle in order to contact the individuals inside. The gold vehicle started to drive off N/B through the parking lot. Off. Miller parallelled the vehicle and then turned E/B. As he did the suspect vehicle turned W/B and drove by Off. Miller ignoring his emergency vehicle lights that were on.

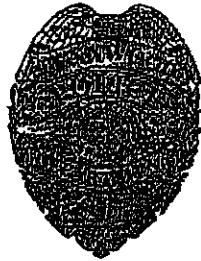
I was following the vehicle in my semi marked police vehicle and had my vehicles' emergency lights activated. I advised dispatch that I was in pursuit as the vehicle exited onto 48th Ave. W. N/B from the parking lots west driveway. Off. Miller had repositioned his vehicle, cantered on 48th Ave. W. at 194th St. SW with his vehicles emergency lights still on. The suspect vehicle accelerated and swerved hard right to go around the stopped patrol vehicle. As it did the suspect's vehicle right front wheel struck the curb damaging the rim cover. The suspect vehicle continued N/B on 48th Ave. W. failing to stop for the stop sign at 194th St. SW. The suspect vehicle attempted to make a left turn onto 192nd St. SW and ran onto the N/W curb. The suspect vehicle maneuvered off the curb and I followed it W/B on 192nd St. SW to 52nd Ave. W. at speeds up to 40 mph in a 25 mph zone. Again failing to stop for the stop sign at 52nd Ave. W. and 192nd St. SW. I had activated all emergency equipment by this time including the siren on my vehicle.

As the vehicle turned N/B onto 52nd Ave. W. Off. DeGabriele in a fully marked patrol vehicle with lights and siren joined in on the pursuit. It had just stopped raining and the roads were wet, traffic was light and had stopped upon hearing the police sirens. The suspect vehicle failed to stop for the stop sign N/B on 52nd Ave. W at 188th St. SW. The suspect vehicle increased its speed to 70 mph in a 30 mph zone. There was only one other car in front of the suspect vehicle in the 18400 block. The suspect vehicle slowed down and then passed on that vehicles right side. The suspect vehicle slowed again as it approached Hwy 99 and as it turned onto Hwy 99 it failed to stop for the stop sign before entering the Hwy.

I would classify the traffic flow on Hwy 99 as medium being somewhat heavier than the other surface roads. The suspect vehicle turned E/B onto 180th St. SW and

Sgt. Mark Demetruk #412

EXH. B



Lynnwood Police Department
Case # 02-10071

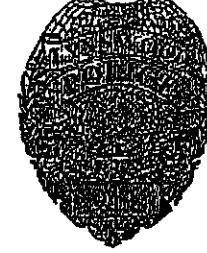
accelerated to 60 mph in a 30 mph zone, again there was no traffic on 180th St. SW. As the suspect vehicle approached 44th Ave. W. it slowed down and ran the stop sign as it turned S/B onto 44th Ave. W. As I reached 44th Ave. W. no other vehicles were present except those stopped on 44th Ave. W. at Maple Road due to Officer Brinkman positioning of his vehicle with emergency equipment activated.

The suspect vehicle turned E/B onto Maple Road by turning into the W/B lane and then moving over to the E/B lane. As the suspect vehicle continued E/B, just after 42nd Ave. W. I observed the passenger throw items (assorted papers) out of the passengers window striking the 20 mph speed sign. The suspect vehicle continued E/B traveling 40 mph in a 25 mph zone. As the suspect vehicle reached 36th Ave. W. it failed to stop for the stop sign and turned left onto 36th Ave. W. N/B. There was heavy construction in the area and the suspect vehicle turned W/B into the Korean Emmanuel Church located at 17730n 36th Ave. W. The suspect vehicle drove to the rear of the church and was forced to stop. The driver exited the vehicle and gave himself up immediately the passenger fled on foot. Containment was set up and K9-S was requested. The suspect was located in a water retention pond off Maple Road by containment officers. Lynnwood Officer Langdon recovered the paperwork that was tossed out of the vehicle by the passenger.

As I placed the suspected driver into custody he placed a wallet on the back of the gold vehicle. He stated that he wanted the wallet because it was his. I removed a large amount of cash (MAD001) from his right front pants pocket. He also claimed the money to be his. I identified him from a Washington State drivers' license as Abel Unabue 12-17-74. I then verbally advised him of his constitutional rights from memory. The suspect acknowledged his understanding of his constitutional rights and then agreed to talk to me without presence of consul.

Nnabue stated that he just drove a friend to Fred Meyers. He said he went into the store to buy some cigarettes and his friend wanted to get some bump removal for his hair since he just got it cut. Nnabue said he bought his cigarettes and went out to his vehicle that he rented from Thrifty on Pacific Hwy South. Nnabue said he does not know what his friend was doing. Nnabue when asked did not know what his friends name was or where he lived. Nnabue said his friend then came out to the car. After entering the car he saw the police officer coming toward him with his gun drawn, fearing that he was going to be killed he drove away, failing to stop for all police vehicles for that same fear.

I ran a full check on the Plymouth Neon bearing Or. license plates # YYS641. The vehicle returned clear and current to a rental car agency. Nnabue reiterated several times that he rented the vehicle from Thrifty rent a car. Nnabue asked what was going to happen to the vehicle since it needed to be back tonight or they would charge him for



Lynnwood Police Department
Case # 02-10071

another day. I told him that I was going to impound the vehicle and petition the court for a search warrant. Nnabue stated in the presence of Officer DeGabriele that he would give me permission to search the vehicle and that I do not need to get a search warrant. I then asked Nnabue "you do not care if I search your car", Nnabue stated "no, go ahead". I then conducted a search of the suspect vehicle removing the following items. From the drivers side front floor board a Samsung cellular telephone (MAD002). From the passenger side floor board two Nokia cellular telephones and assorted recharging plugs (MAD003). I also removed several computer e-mail print out pages from the floorboard (MAD004). From the rear seat I removed a blue gym bag containing assorted clothes and electronic items (MAD005). The rear seat had a pass through with access to the trunk. From the trunk area I removed a white Nordstrom's bag containing men's shirts and ties (MAD006) and a black gym bag containing more clothes, jewelry boxes and telephones (MAD007). I removed a Thrifty and Dollar car rental agreements (MAD010) from the passenger door siccve. As I was walking back to my patrol vehicle I noticed another computer print out page similar to the ones located in the front of the suspect vchicle. A closer check showed it to be part of the same e-mail printout located in the suspect vehicle. I collected the page (MAD008) containing people's names, addresses, dates of births and social security numbers.

I transported Nnabue to the Lynnwood jail as Off. DeGabriele remained with the vehicle until the tow truck arrived. At the Lynnwood jail a closer look at Nnabue's wallet showed he had a Washington State identification card. The last name on the LD. card was spelled "Nnabue" instead of Nnabuc like what was printed on his drivers' license. Nnabue stated that this was a DOL error. I also located Discover credit cards in his wallet under different names. One of the wallets recovered at the 20 mph speed sign contained Texas drivers' licenses with Nnabue's picture on them with the names of the people issued the Discover card. I seized the wallet and it's contents (MAD009) as evidence. When I questioned Nnabue about this he just said that the guy on the license looked kind of like him. I stopped questioning Nnabue at this time knowing that CID would be questioning him further concerning the situation. I confiscated Nnabue's Modavo watch and silver color chain necklace (MAD012) and Alexanders' Modavo watch gold color chain and two silver color chains (MAD013) during the booking process, since receipts showed they had just purchased them. Off. DeGabriele turned over to me a pair of tan work boots (MAD014) he located in the black gym bag along with a sprint cell phone and two Samsung cell phones (MAD011).

I had Off. DeGabriele photo copy all items and place them into plastic bags. I entered all items into evidence at Lynnwood P.D. I completed seizure notices on the money, jewelry and ccellular telephones confiscated from both Nnabue and his accomplice who unidentified at this time.